International Covenant on Civil and Political Rights

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Human Rights Committee
Sixty-fifth session

Consideration of reports submitted by States parties under article 40 of the Covenant

Concluding observations of the Human Rights Committee

Canada

1. The Committee considered the fourth periodic report of the Government of Canada (CCPR/C/103/Add.5) at its 1737th and 1738th meetings (CCPR/SR.1737–1738), held on 26 March 1999, and adopted the following concluding observations at its 1747th meeting (CCPR/C/SR.1747), held on 6 April 1999.

A. Introduction

2. The Committee welcomes the comprehensive fourth periodic report as well as the additional written information covering the period since the submission of that report. The Committee expresses its appreciation for the presence of the large delegation representing the Government of Canada and for the frank and forthright replies furnished by the delegation to the issues raised by the Committee. However, the Committee is concerned that the delegation was not able to give up-to-date answers or information about compliance with the Covenant by the provincial authorities.

B. Principal positive aspects

3. The Committee welcomes the delegation's commitment to take action to ensure effective follow-up in Canada of the Committee's concluding observations and to further develop and improve mechanisms for ongoing review of compliance of the State party with the provisions of the Covenant. In particular, the Committee welcomes the delegation's commitment to inform public opinion in Canada about the Committee's concerns and recommendations, to distribute the Committee's concluding observations to all members

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of Parliament and to ensure that a parliamentary committee will hold hearings of issues arising from the Committee's observations.

4. The Committee welcomes the final report of the Royal Commission on Aboriginal Peoples and the declared commitment of federal and provincial governments to work in partnership with aboriginal peoples to address needed reforms.

5. The Committee commends the Government of Canada in regard to the Nunavut land and governance agreement of the eastern Arctic.

6. The Committee welcomes the implementation of the Employment Equity Act, which entered into force in October 1996, establishing a compliance regime that requires federal departments to ensure that women, persons belonging to aboriginal and visible minorities and disabled persons constitute a fair part of their workforce.

C. Principal areas of concern and recommendations

7. The Committee, while taking note of the concept of self-determination as applied by Canada to the aboriginal peoples, regrets that no explanation was given by the delegation concerning the elements that make up that concept, and urges the State party to report adequately on implementation of article 1 of the Covenant in its next periodic report.

8. The Committee notes that, as the State party acknowledged, the situation of the aboriginal peoples remains "the most pressing human rights issue facing Canadians". In this connection, the Committee is particularly concerned that the State party has not yet implemented the recommendations of the Royal Commission on Aboriginal Peoples (RCAP). With reference to the conclusion by RCAP that without a greater share of lands and resources institutions of aboriginal self-government will fail, the Committee emphasizes that the right to self-determination requires, *inter alia,* that all peoples must be able to freely dispose of their natural wealth and resources and that they may not be deprived of their own means of subsistence (art. 1, para. 2). The Committee recommends that decisive and urgent action be taken towards the full implementation of the RCAP recommendations on land and resource allocation. The Committee also recommends that the practice of extinguishing inherent aboriginal rights be abandoned as incompatible with article 1 of the Covenant.

9. The Committee is concerned with the inadequacy of remedies for violations of articles 2, 3 and 26 of the Covenant. The Committee recommends that the relevant human rights legislation be amended so as to guarantee access to a competent tribunal and to an effective remedy in all cases of discrimination.

10. The Committee is concerned that gaps remain between the protection of rights under the Canadian charter and other federal and provincial laws and the protection required under the Covenant, and recommends measures to ensure full implementation of Covenant rights. In this regard the Committee recommends that consideration be given to the establishment of a public body responsible for overseeing implementation of the Covenant and for reporting on any deficiencies.

11. The Committee is deeply concerned that the State party so far has failed to hold a thorough public inquiry into the death of an aboriginal activist who was shot dead by provincial police during a peaceful demonstration regarding land claims in September 1995, in Ipperwash. The Committee strongly urges the State party to establish a public inquiry into all aspects of this matter, including the role and responsibility of public officials.

12. The Committee is concerned that homelessness has led to serious health problems and even to death. The Committee recommends that the State party take positive measures required by article 6 to address this serious problem.

13. The Committee is concerned that Canada takes the position that compelling security interests may be invoked to justify the removal of aliens to countries where they may face a substantial risk of torture or cruel, inhuman or degrading treatment. The Committee refers to its General Comment on article 7 and recommends that Canada revise this policy in order to comply with the requirements of article 7 and to meet its obligation never to expel, extradite, deport or otherwise remove a person to a place where treatment or punishment that is contrary to article 7 is a substantial risk.

14. The Committee expresses its concern that the State party considers that it is not required to comply with requests for interim measures of protection issued by the Committee. The Committee urges Canada to revise its policy so as to ensure that all such requests are heeded in order that implementation of Covenant rights is not frustrated.

15. The Committee remains concerned about Canada's policy in relation to expulsion of long-term alien residents, without giving full consideration in all cases to the protection of all Covenant rights, in particular under articles 23 and 24.

16. The Committee is concerned about the increasingly intrusive measures affecting the right to privacy, under article 17 of the Covenant, of people relying on social assistance, including identification techniques such as fingerprinting and retinal scanning. The Committee recommends that the State party take steps to ensure the elimination of such practices.

17. The Committee notes with concern that the State party has not secured throughout its territory freedom of association. In particular, the Act to Prevent Unionization with respect to Community Participation under the Ontario Works Act, passed by the Ontario legislature in November 1998, which denies participants in "workfare" the right to join a trade union and to bargain collectively, affects implementation of article 22 of the Covenant. The Committee recommends that the State party take measures to ensure compliance with the Covenant.

18. The Committee is concerned that differences in the way in which the National Child Benefit Supplement for low-income families is implemented in some provinces may result in a denial of this benefit to some children. This may lead to non-compliance with article 24 of the Covenant.

19. The Committee is concerned about ongoing discrimination against aboriginal women. Following the adoption of the Committee's Views in the Lovelace case in July 1981, amendments were introduced to the Indian Act in 1985. Although the Indian status of women who had lost status because of marriage was reinstituted, this amendment affects only the woman and her children, not subsequent generations, which may still be denied membership in the community. The Committee recommends that these issues be addressed by the State party.

20. The Committee is concerned that many women have been disproportionately affected by poverty. In particular, the very high poverty rate among single mothers leaves their children without the protection to which they are entitled under the Covenant. While the delegation expressed a strong commitment to address these inequalities in Canadian society, the Committee is concerned that many of the programme cuts in recent years have exacerbated these inequalities and harmed women and other disadvantaged groups. The Committee recommends a thorough assessment of the impact of recent changes in social

programmes on women and that action be undertaken to redress any discriminatory effects of these changes.

21. The Committee sets the date for the submission of Canada's fifth periodic report as ..... . It urges the State party to make available to the public the text of the State party's fourth periodic report and these concluding observations. It requests that the next periodic report be widely disseminated among the public, including to non-governmental organizations operating in Canada.